

1

OCTOBER 12, 1999

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2300
OFFERED BY MR. GOODLING

Strike all after the enacting clause and insert the following:

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Academic Achievement
4 for All Act (Straight A’s Act)”.

5 SEC. 2. PURPOSE.

6 The purpose of this Act is to create options for States
7 and communities—

8 (1) to improve the academic achievement of all
9 students, and to focus the resources of the Federal
10 Government upon such achievement;

11 (2) to improve teacher quality and subject mat-
12 ter mastery, especially in math, reading, and science;

(3) to empower parents and schools to effectively address the needs of their children and students;

(4) to give States and communities maximum freedom in determining how to boost academic achievement and implement education reforms;

1 (5) to eliminate Federal barriers to implement-
2 ing effective State and local education programs;

3 (6) to hold States and communities accountable
4 for boosting the academic achievement of all stu-
5 dents, especially disadvantaged children; and

6 (7) to narrow achievement gaps between the
7 lowest and highest performing groups of students so
8 that no child is left behind.

9 **SEC. 3. PERFORMANCE AGREEMENT.**

10 (a) PROGRAM AUTHORIZED.—A State may, at its op-
11 tion, execute a performance agreement with the Secretary
12 under which the provisions of law described in section 4(a)
13 shall not apply to such State except as otherwise provided
14 in this Act.

15 (b) LOCAL INPUT.—States shall provide parents,
16 teachers, and local schools and districts notice and oppor-
17 tunity to comment on any proposed performance agree-
18 ment prior to submission to the Secretary as provided
19 under general State law notice and comment provisions.

20 (c) APPROVAL OF PERFORMANCE AGREEMENT.—A
21 performance agreement submitted to the Secretary under
22 this section shall be considered as approved by the Sec-
23 retary within 60 days after receipt of the performance
24 agreement unless the Secretary provides a written deter-
25 mination to the State that the performance agreement

1 fails to satisfy the requirements of this Act before the ex-
2 piration of the 60-day period.

3 (d) TERMS OF PERFORMANCE AGREEMENT.—Each
4 performance agreement executed pursuant to this Act
5 shall include the following provisions:

6 (1) TERM.—A statement that the term of the
7 performance agreement shall be 5 years.

8 (2) APPLICATION OF PROGRAM REQUIRE-
9 MENTS.—A statement that no program requirements
10 of any program included by the State in the per-
11 formance agreement shall apply, except as otherwise
12 provided in this Act.

13 (3) LIST.—A list provided by the State of the
14 programs that it wishes to include in the perform-
15 ance agreement.

16 (4) USE OF FUNDS TO IMPROVE STUDENT
17 ACHIEVEMENT.—A 5-year plan describing how the
18 State intends to combine and use the funds from
19 programs included in the performance agreement to
20 advance the education priorities of the State, im-
21 prove student achievement, and narrow achievement
22 gaps between students.

23 (5) ACCOUNTABILITY REQUIREMENTS.—If a
24 State includes any part of title I of the Elementary
25 and Secondary Education Act of 1965 in its per-

1 formance agreement, the State shall include a cer-
2 tification that the State has done the following:

3 (A)(i) developed and implemented the chal-
4 lenging State content standards, challenging
5 State student performance standards, and
6 aligned assessments described in section
7 1111(b) of the Elementary and Secondary Edu-
8 cation Act of 1965; or

9 (ii) developed and implemented a system to
10 measure the degree of change from one school
11 year to the next in student performance;

12 (B) developed and is implementing a state-
13 wide accountability system that has been or is
14 reasonably expected to be effective in substan-
15 tially increasing the numbers and percentages
16 of all students who meet the State's proficient
17 and advanced levels of performance;

18 (C) established a system under which as-
19 sessment information may be disaggregated
20 within each State, local educational agency, and
21 school by each major racial and ethnic group,
22 gender, English proficiency status, migrant sta-
23 tus, and by economically disadvantaged stu-
24 dents as compared to students who are not eco-
25 nomicallly disadvantaged (except that such

1 disaggregation shall not be required in cases in
2 which the number of students in any such
3 group is insufficient to yield statistically reliable
4 information or would reveal the identity of an
5 individual student);

6 (D) established specific, measurable, nu-
7 merical performance objectives for student
8 achievement, including a definition of perform-
9 ance considered to be proficient by the State on
10 the academic assessment instruments described
11 under subparagraph (A);

12 (E) developed and implemented a statewide
13 system for holding its local educational agencies
14 and schools accountable for student perform-
15 ance that includes—

16 (i) a procedure for identifying local
17 educational agencies and schools in need of
18 improvement, using the assessments de-
19 scribed under subparagraph (A);

20 (ii) assisting and building capacity in
21 local educational agencies and schools iden-
22 tified as in need of improvement to im-
23 prove teaching and learning; and

24 (iii) implementing corrective actions
25 after no more than 3 years if the assist-

1 ance and capacity building under clause
2 (ii) is not effective.

3 (6) PERFORMANCE GOALS.—

4 (A) STUDENT ACADEMIC ACHIEVEMENT.—

5 Each State shall establish annual student per-
6 formance goals for the 5-year term of the per-
7 formance agreement that, at a minimum—

8 (i) establish a single high standard of
9 performance for all students;

10 (ii) take into account the progress of
11 students from every local educational agen-
12 cy and school in the State;

13 (iii) are based primarily on the State's
14 challenging content and student perform-
15 ance standards and assessments described
16 under paragraph (5)(A);

17 (iv) include specific annual improve-
18 ment goals in each subject and grade in-
19 cluded in the State assessment system,
20 which must include, at a minimum, read-
21 ing or language arts and math;

22 (v) compares the proportions of stu-
23 dents at the “basic”, “proficient”, and
24 “advanced” levels of performance (as de-
25 fined by the State) with the proportions of

1 students at each of the 3 levels in the same
2 grade in the previous school year;

3 (vi) includes annual numerical goals
4 for improving the performance of each
5 group specified in paragraph (5)(C) and
6 narrowing gaps in performance between
7 the highest and lowest performing students
8 in accordance with section 10(b); and

9 (vii) requires all students in the State
10 to make substantial gains in achievement.

11 (B) ADDITIONAL INDICATORS OF PER-
12 FORMANCE.—A State may identify in the per-
13 formance agreement any additional indicators
14 of performance such as graduation, dropout, or
15 attendance rates.

16 (C) CONSISTENCY OF PERFORMANCE
17 MEASURES.—A State shall maintain, at a mini-
18 mum, the same level of challenging State stu-
19 dent performance standards and assessments
20 throughout the term of the performance agree-
21 ment.

22 (7) FISCAL RESPONSIBILITIES.—An assurance
23 that the State will use fiscal control and fund ac-
24 counting procedures that will ensure proper dis-

1 bursement of, and accounting for, Federal funds
2 paid to the State under this Act.

3 (8) CIVIL RIGHTS.—An assurance that the
4 State will meet the requirements of applicable Fed-
5 eral civil rights laws.

6 (9) PRIVATE SCHOOL PARTICIPATION.—

7 (A) EQUITABLE PARTICIPATION.—An as-
8 surance that the State will provide for the equi-
9 table participation of students and professional
10 staff in private schools.

11 (B) APPLICATION OF BYPASS.—An assur-
12 ance that sections 14504, 14505, and 14506 of
13 the Elementary and Secondary Education Act
14 of 1965 (20 U.S.C. 8894, 8895, and 8896)
15 shall apply to all services and assistance pro-
16 vided under this Act in the same manner as
17 they apply to services and assistance provided
18 in accordance with section 14503 of such Act.

19 (10) STATE FINANCIAL PARTICIPATION.—An
20 assurance that the State will not reduce the level of
21 spending of State funds for elementary and second-
22 ary education during the term of the performance
23 agreement.

24 (11) ANNUAL REPORT.—An assurance that not
25 later than 1 year after the execution of the perform-

1 ance agreement, and annually thereafter, each State
2 shall disseminate widely to parents and the general
3 public, submit to the Secretary, distribute to print
4 and broadcast media, and post on the Internet, a re-
5 port that includes—

6 (A) student academic performance data,
7 disaggregated as provided in paragraph (5)(C);
8 and

9 (B) a detailed description of how the State
10 has used Federal funds to improve student aca-
11 demic performance and reduce achievement
12 gaps to meet the terms of the performance
13 agreement.

14 (e) SPECIAL RULE.—If a State does not include any
15 part of title I of the Elementary and Secondary Education
16 Act of 1965 in its performance agreement, the State
17 shall—

18 (1) certify that it has developed a system to
19 measure the academic performance of all students;
20 and

21 (2) establish challenging academic performance
22 goals for such other programs using academic as-
23 sessment data described in paragraph (5).

24 (f) AMENDMENT TO PERFORMANCE AGREEMENT.—
25 A State may submit an amendment to the performance

1 agreement to the Secretary under the following cir-
2 cumstances:

3 (1) REDUCE SCOPE OF PERFORMANCE AGREE-
4 MENT.—Not later than 1 year after the execution of
5 the performance agreement, a State may amend the
6 performance agreement through a request to with-
7 draw a program from such agreement. If the Sec-
8 retary approves the amendment, the requirements of
9 existing law shall apply for any program withdrawn
10 from the performance agreement.

11 (2) EXPAND SCOPE OF PERFORMANCE AGREE-
12 MENT.—Not later than 1 year after the execution of
13 the performance agreement, a State may amend its
14 performance agreement to include additional pro-
15 grams and performance indicators for which it will
16 be held accountable.

17 (3) APPROVAL OF AMENDMENT.—An amend-
18 ment submitted to the Secretary under this sub-
19 section shall be considered as approved by the Sec-
20 retary within 60 days after receipt of the amend-
21 ment unless the Secretary provides a written deter-
22 mination to the State that the performance agree-
23 ment if amended by the amendment would fail to
24 satisfy the requirements of this Act, before the expi-
25 ration of the 60-day period.

1 **SEC. 4. ELIGIBLE PROGRAMS.**

2 (a) ELIGIBLE PROGRAMS.—The provisions of law re-
3 ferred to in section 3(a) except as otherwise provided in
4 subsection (b), are as follows:

5 (1) Part A of title I of the Elementary and Sec-
6 ondary Education Act of 1965.

7 (2) Part B of title I of the Elementary and Sec-
8 ondary Education Act of 1965.

9 (3) Part C of title I of the Elementary and Sec-
10 ondary Education Act of 1965.

11 (4) Part D of title I of the Elementary and Sec-
12 ondary Education Act of 1965.

13 (5) Part B of title II of the Elementary and
14 Secondary Education Act of 1965.

15 (6) Section 3132 of title III of the Elementary
16 and Secondary Education Act of 1965.

17 (7) Title IV of the Elementary and Secondary
18 Education Act of 1965.

19 (8) Title VI of the Elementary and Secondary
20 Education Act of 1965.

21 (9) Section 307 of the Department of Edu-
22 cation Appropriation Act of 1999.

23 (10) Comprehensive school reform programs as
24 authorized under section 1502 of the Elementary
25 and Secondary Education Act of 1965 and described
26 on pages 96–99 of the Joint Explanatory Statement

1 of the Committee of Conference included in House
2 Report 105–390 (Conference Report on the Depart-
3 ments of Labor, Health and Human Services, and
4 Education, and Related Agencies Appropriations
5 Act, 1998).

6 (11) Part C of title VII of the Elementary and
7 Secondary Education Act of 1965.

8 (12) Title III of the Goals 2000: Educate
9 America Act.

10 (13) Sections 115 and 116, and parts B and C
11 of title I of the Carl D. Perkins Vocational Technical
12 Education Act.

13 (14) Subtitle B of title VII of the Stewart B.
14 McKinney Homeless Assistance Act.

15 (b) ALLOCATIONS TO STATES.—A State may choose
16 to consolidate funds from any or all of the programs de-
17 scribed in subsection (a) without regard to the program
18 requirements of the provisions referred to in such sub-
19 section, except that the proportion of funds made available
20 for national programs and allocations to each State for
21 State and local use, under such provisions, shall remain
22 in effect unless otherwise provided.

23 (c) USES OF FUNDS.—Funds made available under
24 this Act to a State shall be used for any elementary and

1 secondary educational purposes permitted by State law of
2 the participating State.

3 **SEC. 5. WITHIN-STATE DISTRIBUTION OF FUNDS.**

4 (a) IN GENERAL.—The distribution of funds from
5 programs included in a performance agreement from a
6 State to a local educational agency within the State shall
7 be determined by the Governor of the State and the State
8 legislature. In a State in which the constitution or State
9 law designates another individual, entity, or agency to be
10 responsible for education, the allocation of funds from pro-
11 grams included in the performance agreement from a
12 State to a local educational agency within the State shall
13 be determined by that individual, entity, or agency, in con-
14 sultation with the Governor and State Legislature. Noth-
15 ing in this section shall be construed to supersede or mod-
16 ify any provision of a State constitution or State law.

17 (b) LOCAL INPUT.—States shall provide parents,
18 teachers, and local schools and districts notice and oppor-
19 tunity to comment on the proposed allocation of funds as
20 provided under general State law notice and comment pro-
21 visions.

22 (c) LOCAL HOLD HARMLESS OF PART A TITLE 1
23 FUNDS.—

24 (1) IN GENERAL.—In the case of a State that
25 includes part A of title I of the Elementary and Sec-

1 ondary Education Act of 1965 in the performance
2 agreement, the agreement shall provide an assurance
3 that each local educational agency shall receive
4 under the performance agreement an amount equal
5 to or greater than the amount such agency received
6 under part A of title I of such Act in the fiscal year
7 preceding the fiscal year in which the performance
8 agreement is executed.

9 (2) PROPORTIONATE REDUCTION.—If the
10 amount made available to the State from the Sec-
11 retary for a fiscal year is insufficient to pay to each
12 local educational agency the amount made available
13 under part A of title I of the Elementary and Sec-
14 ondary Education Act of 1965 to such agency for
15 the preceding fiscal year, the State shall reduce the
16 amount each local educational agency receives by a
17 uniform percentage.

18 **SEC. 6. LOCAL PARTICIPATION.**

19 (a) NONPARTICIPATING STATE.—

20 (1) IN GENERAL.—If a State chooses not to
21 submit a performance agreement under this Act, any
22 local educational agency in such State is eligible, at
23 its option, to submit to the Secretary a performance
24 agreement in accordance with this section.

1 (2) AGREEMENT.—The terms of a performance
2 agreement between an eligible local educational
3 agency and the Secretary shall specify the programs
4 to be included in the performance agreement, as
5 agreed upon by the State and the agency, from the
6 list under section 4(a).

7 (b) STATE APPROVAL.—When submitting a perform-
8 ance agreement to the Secretary, an eligible local edu-
9 cational agency described in subsection (a) shall provide
10 written documentation from the State in which such agen-
11 cy is located that it has no objection to the agency's pro-
12 posal for a performance agreement.

13 (c) APPLICATION.—

14 (1) IN GENERAL.—Except as provided in this
15 section, and to the extent applicable, the require-
16 ments of this Act shall apply to an eligible local edu-
17 cational agency that submits a performance agree-
18 ment in the same manner as the requirements apply
19 to a State.

20 (2) EXCEPTIONS.—The following provisions
21 shall not apply to an eligible local educational agen-
22 cy:

23 (A) WITHIN STATE DISTRIBUTION FOR-
24 MULA NOT APPLICABLE.—The formula for the

1 allocation of funds under section 5 shall not
2 apply.

3 (B) STATE SET ASIDE SHALL NOT
4 APPLY.—The State set aside for administrative
5 funds in section 7 shall not apply.

6 **SEC. 7. LIMITATIONS ON STATE AND LOCAL EDUCATIONAL**
7 **AGENCY ADMINISTRATIVE EXPENDITURES.**

8 (a) IN GENERAL.—Except as otherwise provided
9 under subsection (b), a State that includes part A of title
10 I of the Elementary and Secondary Education Act of 1965
11 in the performance agreement may use not more than 1
12 percent of such total amount of funds allocated to such
13 State under the programs included in the performance
14 agreement for administrative purposes.

15 (b) EXCEPTION.—A State that does not include part
16 A of title I of the Elementary and Secondary Education
17 Act of 1965 in the performance agreement may use not
18 more than 3 percent of the total amount of funds allocated
19 to such State under the programs included in the perform-
20 ance agreement for administrative purposes.

21 (c) LOCAL EDUCATIONAL AGENCY.—A local edu-
22 cational agency participating in this Act under a perform-
23 ance agreement under section 6 may not use for adminis-
24 trative purposes more than 4 percent of the total amount

1 of funds allocated to such agency under the programs in-
2 cluded in the performance agreement.

3 **SEC. 8. PERFORMANCE REVIEW.**

4 (a) MID-TERM PERFORMANCE REVIEW.—If, during
5 the 5 year term of the performance agreement, student
6 achievement significantly declines for 3 consecutive years
7 in the academic performance categories established in the
8 performance agreement, the Secretary may, after notice
9 and opportunity for a hearing, terminate the agreement

10 (b) FAILURE TO MEET TERMS.—If at the end of the
11 5-year term of the performance agreement a State has not
12 substantially met the performance goals submitted in the
13 performance agreement, the Secretary shall, after notice
14 and an opportunity for a hearing, terminate the perform-
15 ance agreement and the State shall be required to comply
16 with the program requirements, in effect at the time of
17 termination, for each program included in the perform-
18 ance agreement.

19 (c) PENALTY FOR FAILURE TO IMPROVE STUDENT
20 PERFORMANCE.—If a State has made no progress toward
21 achieving its performance goals by the end of the term
22 of the agreement, the Secretary may reduce funds for
23 State administrative costs for each program included in
24 the performance agreement by up to 50 percent for each

1 year of the 2-year period following the end of the term
2 of the performance agreement.

3 **SEC. 9. RENEWAL OF PERFORMANCE AGREEMENT.**

4 (a) NOTIFICATION.—A State that wishes to renew its
5 performance agreement shall notify the Secretary of its
6 renewal request not less than 6 months prior to the end
7 of the term of the performance agreement.

8 (b) RENEWAL REQUIREMENTS.—A State that has
9 met or has substantially met its performance goals submit-
10 ted in the performance agreement at the end of the 5-
11 year term may reapply to the Secretary to renew its per-
12 formance agreement for an additional 5-year period. Upon
13 the completion of the 5-year term of the performance
14 agreement or as soon thereafter as the State submits data
15 required under the agreement, the Secretary shall renew,
16 for an additional 5-year term, the performance agreement
17 of any State that has met or has substantially met its per-
18 formance goals.

19 **SEC. 10. ACHIEVEMENT GAP REDUCTION REWARDS.**

20 (a) CLOSING THE GAP REWARD FUND.—

21 (1) IN GENERAL.—To reward States that make
22 significant progress in eliminating achievement gaps
23 by raising the achievement levels of the lowest per-
24 forming students, the Secretary shall set aside suffi-
25 cient funds from the Fund for the Improvement of

1 Education under part A of title X of the Elementary
2 and Secondary Education Act of 1965 to grant a re-
3 ward to States that meet the conditions set forth in
4 subsection (b) by the end of their 5-year perform-
5 ance agreement.

6 (2) REWARD AMOUNT.—The amount of the re-
7 ward referred to in paragraph (1) shall be not less
8 than 5 percent of funds allocated to the State during
9 the first year of the performance agreement for pro-
10 grams included in the agreement.

11 (b) CONDITIONS OF PERFORMANCE REWARD.—Sub-
12 ject to paragraph (3), a State is eligible to receive a re-
13 ward under this section as follows:

14 (1) A State is eligible for such an award if the
15 State reduces by not less than 25 percent, over the
16 5-year term of the performance agreement, the dif-
17 ference between the percentage of highest and lowest
18 performing groups of students that meet the State's
19 definition of "proficient" as referenced in section
20 1111(b)(1)(D)(i)(II) of the Elementary and Second-
21 ary Education Act of 1965.

22 (2) A State is eligible for such an award if a
23 State increases the proportion of 2 or more groups
24 of students under section 3(d)(5)(C) that meet State
25 proficiency standards by 25 percent.

1 (3) A State shall receive such an award if the
2 following requirements are met:

3 (A) CONTENT AREAS.—The reduction in
4 the achievement gap or improvement in achieve-
5 ment shall include not less than 2 content
6 areas, one of which shall be mathematics or
7 reading.

8 (B) GRADES TESTED.—The reduction in
9 the achievement gap or improvement in achieve-
10 ment shall occur in at least 2 grade levels.

11 (c) RULE OF CONSTRUCTION.—Student achievement
12 gaps shall not be considered to have been reduced in cir-
13 cumstances where the average academic performance of
14 the highest performing quintile of students has decreased.

15 **SEC. 11. STRAIGHT A'S PERFORMANCE REPORT.**

16 The Secretary shall make the annual State reports
17 described in section 3 available to the House Committee
18 on Education and the Workforce and the Senate Commit-
19 tee on Health, Education, Labor and Pensions not later
20 than 60 days after the Secretary receives the report.

21 **SEC. 12. APPLICABILITY OF TITLE XIV OF THE ELEMEN-**
22 **TARY AND SECONDARY EDUCATION ACT OF**
23 **1965.**

24 To the extent that provisions of title XIV of the Ele-
25 mentary and Secondary Education Act of 1965 are incon-

1 sistent with this Act, this Act shall be construed as super-
2 seding such provisions.

3 **SEC. 13. APPLICABILITY OF GENERAL EDUCATION PROVI-**
4 **SIONS ACT.**

5 To the extent that the provisions of the General Edu-
6 cation Provisions Act are inconsistent with this Act, this
7 Act shall be construed as superseding such provisions, ex-
8 cept where relating to civil rights, withholding of funds
9 and enforcement authority, and family educational and
10 privacy rights.

11 **SEC. 14. APPLICABILITY TO HOME SCHOOLS.**

12 Nothing in this Act shall be construed to affect home
13 schools whether or not a home school is treated as a pri-
14 vate school or home school under State law.

15 **SEC. 15. GENERAL PROVISIONS REGARDING NON-RECIPI-**
16 **ENT, NON-PUBLIC SCHOOLS.**

17 Nothing in this Act shall be construed to permit,
18 allow, encourage, or authorize any Federal control over
19 any aspect of any private, religious, or home school,
20 whether or not a home school is treated as a private school
21 or home school under State law.

22 **SEC. 16. DEFINITIONS.**

23 For the purpose of this Act:

24 (1) ALL STUDENTS.—The term “all students”
25 means all students attending public schools or char-

1 ter schools that are participating in the State's ac-
2 countability and assessment system.

3 (2) ALL SCHOOLS.—The term “all schools”
4 means all schools that are participating in the
5 State's accountability and assessment system.

6 (3) LOCAL EDUCATIONAL AGENCY.—The term
7 “local educational agency” has the same meaning
8 given such term in section 14101 of the Elementary
9 and Secondary Education Act of 1965 (20 U.S.C.
10 8801).

11 (4) SECRETARY.—The term “Secretary” means
12 the Secretary of Education.

13 (5) STATE.—The term “State” means each of
14 the 50 States, the District of Columbia, the Com-
15 monwealth of Puerto Rico, Guam, the United States
16 Virgin Islands, the Commonwealth of the Northern
17 Mariana Islands, and American Samoa.